

**DEPARTMENT OF THE ARMY
PROGRAMMATIC GENERAL PERMIT
STATE OF MAINE**

The New England District of the U.S. Army Corps of Engineers hereby issues a Programmatic General Permit (PGP) that expedites review of minimal impact work in coastal and inland waters and wetlands within the State of Maine.

I. GENERAL CRITERIA

Activities with minimal impacts, as specified by the terms and conditions of this PGP and on the attached Appendix A, Definition of Categories, are either:

Category 1: Non-reporting. Eligible without screening (provided the authorizations are obtained which this permit states are necessary for activities to be eligible for authorization under this non-reporting category), or,

Category 2: Reporting. Require screening and a written determination of eligibility under the PGP by the Corps after coordination with the U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency and the National Marine Fisheries Service

This PGP does not affect the Corps individual permit review process or activities exempt from Corps jurisdiction.

II. ACTIVITIES COVERED:

Work and structures that are located in, or that affect, navigable waters of the United States (U.S.) (Corps regulates under Section 10 of the Rivers and Harbors Act of 1899); the discharge of dredged or fill material into waters of the United States (Corps regulates under Section 404 of the Clean Water Act); and the transportation of dredged material for the purpose of disposal in the ocean (Corps regulates under Section 103 of the Marine Protection, Research and Sanctuaries Act).

III. PROCEDURES:

A. State Approvals

For projects authorized pursuant to this PGP, the following State approvals are also required. The applicable permits must be obtained in order for this PGP authorization to be valid (applicants are responsible for ensuring that all required State permits and approvals have been applied for and obtained):

- (a) Maine Department of Environmental Protection (DEP): Natural Resources Protection Act permit, including permit-by-rule and general permit authorizations; Site Location and Development Act permit; and Maine Waterway Development and Conservation Act.
- (b) Maine Department of Conservation: Land Use Regulation Commission (LURC) permit.
- (c) Maine Department of Marine Resources: Lease.
- (d) Maine Department of Conservation, Bureau of Parks and Lands, Submerged Lands: Lease.

Note, this PGP may still authorize projects that are not regulated by the State of Maine (e.g., seasonal floats or moorings).

B. Corps Authorizations

CATEGORY 1 (Non-Reporting)

Eligibility Criteria

Activities in Maine may proceed without application or notification to the Corps if they:

- Are subject to Corps jurisdiction (see General Condition 2, Page 7)
- Meet the definition of Category 1 in Appendix A - Definition of Categories, and
- Meet the conditions of the PGP listed on Pages (7 - 15)

If the State or the Corps does not contact the applicant for DEP's Tier One permits during the DEP's Tier One 30-day review period, Corps approval may be assumed and the project may proceed. Refer to the Federal Screening Procedures section on Page 4 for additional information regarding screening.

Project proponents seeking Category 1 authorizations are not relieved of the obligation to comply with this PGP's general conditions (see Page 7) and other Federal laws such as the National Historic Preservation Act, the Endangered Species Act and the Wild and Scenic Rivers Act. Therefore, consultation with the Corps and/or outside experts such as the Maine Historic Preservation Commission and the appropriate Indian tribes is recommended when there is a high likelihood of the presence of resources of concern.

Although Category 1 projects are non-reporting, the Corps reserves the right to require screening under Category 2 or Individual Permit review if there are concerns for the aquatic environment or any other factor of the public interest (see General Condition 4, Discretionary Authority, Page 7). Work that is not regulated by the State of Maine, but is subject to Corps jurisdiction, is eligible for Corps authorization under this PGP in accordance with the review thresholds and conditions contained herein.

Enforcement cases. This PGP does not apply to any existing or proposed activity in Corps jurisdiction associated with an on-going Corps or Environmental Protection Agency enforcement action until such time as the enforcement action is resolved or the Corps determines that the activity may proceed independently without compromising the enforcement action. The Corps may choose not to accept applications or issue permits to any applicant with outstanding violations.

CATEGORY 2 (Reporting – Requiring Screening)

Eligibility Criteria

Activities in Maine require written approval from the Corps if they:

- Are subject to Corps jurisdiction, and
- Meet the definition of Category 2 in Appendix A - Definition of Categories, and
- Meet the conditions of the PGP listed on Pages 7 - 15,

These projects will be reviewed through interagency screening (see Federal Screening Procedures below) to determine whether such activities may be authorized under this PGP. To be eligible and subsequently authorized, an activity must result in minimal impacts to the aquatic environment as determined by the Corps based on comments from the review team and the criteria listed above.

Mitigation may be required to compensate for unavoidable impacts to ensure net effects of a project are minimal.

For Category 2 projects, applicants must obtain a written authorization from the Corps, State permits, and approvals as stated on Page 1.

Consultation with the Corps and outside experts is required to ensure compliance with all of this PGP's conditions, such as consultation with the Maine Historic Preservation Commission and the appropriate Native American Indian tribes to ensure compliance with Condition 8. Also, note the review thresholds under Category 2 apply to single and complete projects only (see Condition 5).

Enforcement cases. See previous section.

Application Procedures

Applicants must apply directly to the Corps Maine Project Office for all Category 2 projects. If the work is not State regulated, use ENG Form 4345. If the work is State regulated, submit a copy of the State application form to the Corps. The Corps intends to utilize the State's application information for its Regulatory program to the maximum extent practicable. However, the additional information listed below is also required. **Category 2 projects may not proceed until written notification is received from the Corps.**

Upon receipt of the application, the Corps will determine if it:

- (1) requires additional information (see "information typically required" on the following page);
- (2) is appropriate for screening with the Federal resource agencies (see Category 2 Federal Screening Procedures on the following page);
- (3) is ineligible under the terms and/or conditions of this PGP; or
- (4) will require Individual Permit review, regardless of whether the terms and conditions of this PGP are met, based on concerns for the aquatic environment or any other factor of the public interest (see General Condition 4, Discretionary Authority).

If open water disposal is proposed, the Corps will make a suitability determination, fully coordinated with the Federal resource agencies, before coordinating a project at a joint processing meeting.

All Category 2 applicants shall submit a copy of their application materials to the Maine Historic Preservation Commission and the Indian tribe(s) listed on Page 17, at the same time, or before, they apply to the DEP, LURC, or the Corps, to be reviewed for the presence of historic, archaeological or tribal resources in the permit area that the proposed work may affect. Submittals to the DEP or Corps shall include information to indicate that this has been done (a copy of the applicant's cover letter to Maine Historic Preservation Commission and tribes, or a copy of the Historic Preservation Commission and tribal response letters is acceptable).

Information Typically Required

The following information may not be necessary for all projects. Please see www.nae.usace.army.mil for a more comprehensive checklist. Select "Regulatory/Permitting," "Forms" and then "Application and Plan Guideline Checklist." Please check with our Maine office for project-specific requirements.

- (a) purpose of project;
- (b) 8½"x 11" locus map. 8½"x 11" plan views of the entire property, including property lines, and project limits with existing and proposed conditions;

- (c) typical cross-section views of all wetland and waterway fill areas and wetland replication areas;
- (d) legible, reproducible plans. Show mean low water, mean high water and high tide elevations in navigable waters; Each plan should show the NGVD 1929 equivalent for the project's vertical datum (MHW, MLW, MLLW, HTL or other tidal datum for tidal projects) with the vertical units. Do not use local datum;
- (e) wetland delineation for the site, Corps wetland delineation data sheets (see web site), and calculations of waterway and wetland impact areas (see Condition 2);
- (f) delineation of submerged aquatic vegetation, e.g., eel grass beds, in tidal waters;
- (g) volume, type and source of fill material to be discharged into waters and wetlands, including the area(s) (in square feet or acres) of fill in wetlands, below ordinary high water in inland waters and below the high tide line in coastal waters;
- (h) mean low water, mean high water and high tide elevations in navigable waters;
- (i) limits of any Federal Navigation Project in the vicinity and State Plane Coordinates for the limits of the proposed work closest to the Federal Navigation Project;
- (j) on-site alternatives analysis. Please contact Corps for guidance;
- (k) identify and describe potential impacts to Essential Fish Habitat. See General Condition 11 and contact Corps for guidance;
- (l) photographs of wetland/waterway to be impacted.

Information typically required for dredging projects:

- (a) sediment testing, including physical (e.g., grain-size analysis), chemical and biological testing. For projects proposing open water disposal, applicants are encouraged to contact the Corps as early as possible regarding sampling and testing protocols. Sampling and testing of sediments without such contact should not occur and if done, would be at the applicant's risk.
- (b) the area in square feet and volume of material to be dredged below mean high water;
- (c) existing and proposed water depths;
- (d) type of dredging equipment to be used;
- (e) nature of material (e.g., silty sand);
- (f) any existing sediment grain size and bulk sediment chemistry data for the proposed or any nearby projects;
- (g) information on the location and nature of municipal or industrial discharges and occurrence of any contaminant spills in or near the project area, location of the disposal site (include locus sheet);
- (h) shellfish survey;
- (i) identify and describe potential impacts to essential fish habitat (see General Condition 11);
- (j) delineation of submerged aquatic vegetation (e.g., eelgrass beds).

Federal Screening Procedures

The Corps will review all complete applications for Category 2 projects requiring Corps approval at interagency screening meetings (or "joint processing" meetings) with the Federal resource agencies (U.S. Fish & Wildlife Service, U.S. Environmental Protection Agency and National Marine Fisheries Service) to determine whether such activities may be authorized under this PGP. The Federal resource agencies will comprise the interagency review team. The meetings are held at the Corps every three weeks, or coordinated as necessary to provide applicants with a timely response. The Corps and Federal resource agencies, at the branch chief or equivalent level, may agree on certain activities that do not need to be coordinated at these meetings.

If the Corps and Federal resource agencies determine that the activity is eligible for the PGP, the Corps will send an authorization letter directly to the applicant. The Corps will generally issue an

eligibility determination within the State's review period, not to exceed 60 days. If the Corps determines that the activity is not eligible under the PGP or that additional information is required, the Corps will notify the applicant in writing and will send a copy of this notification to DEP.

For projects reviewed with the Federal resource agencies, the agencies may recommend within ten business days special conditions for projects to avoid or minimize adverse environmental effects and to ensure the terms and conditions of the PGP are met. The Corps will determine that a project is ineligible under this PGP and will begin its Individual Permit review procedures if any one of the Federal resource agencies, within ten business days of the screening meeting, expresses a concern within their area of expertise, states the resource or species that could be impacted by the project, and describes the impacts that, either individually or cumulatively, will be more than minimal.

This 10-day notice may be spoken and is not required to be fully documented, but must be confirmed with a written response within an additional ten working days from the date of the spoken comment. Written responses must be signed by the Federal resource agency field supervisor or branch chief, as appropriate, and must identify the affected resource within their area of expertise. The intent of the spoken notification is to allow the Corps to give timely notification to the applicant that additional information is needed and/or an Individual Permit may be required. The Corps may reinstate a project's eligibility under the PGP provided the Federal agencies' concerns are satisfied. The Federal resource agencies may request additional information within their area of expertise within ten business days of the screening meeting. This information shall be commensurate to the level of impact and agreed upon by the Corps. The agencies are allowed an additional ten business days after their receipt of additional information to provide special conditions or a written Individual Permit request to the Corps.

If the applicant is unable to resolve the concerns, the Corps, independently or at the request of the Federal resource agencies, will require an Individual Permit for the project. The applicant will be notified of this in writing, along with information about submitting the necessary application materials.

Minerals Management Service (MMS) Review

Projects with construction of solid fill structures or discharge of fill that may extend beyond the coastline or the baseline from which the territorial sea is measured (i.e., mean low water), must be coordinated with Minerals Management Service (MMS), Outer Continental Shelf (OCS) Survey Group, pursuant to the Submerged Lands Act (43 USC, Section 1301-1315, 33 CFR 320.4(f)). The Corps will forward project information to MMS for their review. The MMS will coordinate their determination with the Department of the Interior (DOI) Solicitor's Office. The DOI will have fifteen calendar days from the date MMS is in receipt of project information to determine if the baseline will be affected. No notification to the Corps within fifteen-day review period will constitute a "no effect" determination. Otherwise, the solicitor's notification to the Corps may be spoken but must be followed with a written confirmation within ten business days from the date of the spoken notification. This procedure will be eliminated if the State of Maine provides a written waiver of interest in any increase in submerged lands caused by a change in the baseline resulting from solid fill structure or fills authorized under this PGP.

Emergency Situations Procedures

Emergency situations are limited to sudden, unexpected occurrences that could potentially result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process an application under standard procedures. If an emergency situation requires action in less than 30 days after the occurrence, it qualifies for the amended notification procedures described below.

Notification Procedures for Emergency Situations:

Any project proponent may request emergency authorization from the Corps, however the Corps will determine if a project qualifies for these emergency situation procedures. The Federal resource agencies, the Maine Historic Preservation Commission and the tribes will each designate an emergency contact and an alternate in the event the regular contact is unavailable. When an application for Category 2 work is received that the Corps determines is an “emergency” as defined above, the Corps will fax a copy of the plans and Determination of Eligibility to the agency representatives and their alternates. The resource agencies would then have sixteen business hours to notify the Corps if they have any comments on authorization of the project under the PGP. Objections to the Corps determination of an “emergency” situation will not be accepted. If no response is received within sixteen business hours, the Corps will proceed with a decision on the application. If the resource agencies have comments on the proposal, they will have sixteen business hours to put their comments in writing. If written comments from the Federal agencies are not received within sixteen business hours, the Corps will proceed with a decision on the application.

If a Federal agency requests that an Individual Permit be required for a project or requests modifications to the project based on concerns within their area(s) of expertise, the Corps will notify the applicant within one business day of receipt of that request that the project as proposed does not qualify for authorization under this PGP and the emergency Individual Permit procedures may be followed. In any event, the Corps will notify the applicant within sixteen business hours of commencement of the screening process as to whether the project may proceed under this PGP.

IV. CORPS AUTHORIZATION: INDIVIDUAL PERMIT

Work that is defined in the Individual Permit category of Appendix A – Definition of Categories, or that does not meet the terms and conditions of this PGP, will require an application for an Individual Permit from the Corps (see 33 CFR Part 325.1). The screening procedures outlined for Category 2 projects will only serve to delay project review in such cases. The applicant should submit the appropriate application materials (including the Corps application form) at the earliest possible date. General information and application forms can be obtained at our web site or by calling us (see Page 16). Individual water quality certification and coastal zone management consistency concurrence are required when applicable from the State of Maine before Corps permit issuance. Federal resource agencies shall submit written comments within 10 business days of the joint processing meeting at which the project was reviewed, unless the Corps receives and approves a written request for a time extension.

V. PROGRAMMATIC GENERAL PERMIT CONDITIONS:

The following conditions apply to activities authorized under this PGP, including all Category 1 (non-reporting) and Category 2 (reporting – requiring screening) activities:

General Requirements

1. Other Permits: Authorization under this PGP does not obviate the need to obtain other Federal, State, or local authorizations required by law. This includes, but is not limited to, the project proponent obtaining a Flood Hazard Development Permit issued by the town if necessary. Inquiries may be directed to the municipality or to the Maine Floodplain Management Coordinator at (207) 287-8063. See <http://www.maine.gov>.

2. Federal Jurisdictional Boundaries. Applicability of this PGP shall be evaluated with reference to Federal jurisdictional boundaries. Applicants are responsible for ensuring that the boundaries used satisfy the Federal criteria defined at 33 CFR 328-329. These sections prescribe the policy, practice and procedures to be used in determining the extent of jurisdiction of the Corps of Engineers concerning “waters of the United States” and “navigable waters of the United States.” Wetland boundaries shall be delineated in accordance with the January 1987 Corps of Engineers Wetlands Delineation Manual, located at <http://www.saj.usace.army.mil/permit/documents/87manual.pdf>. The U.S. Fish and Wildlife Service publishes the National List of Plant Species that Occur in Wetlands, located at <http://www.nwi.fws.gov>. The Natural Resources Conservation Service (NRCS) publishes the current hydric soil definition, criteria and lists, located at <http://www.statlab.iastate.edu/soils/hydric>.

3. Minimal Effects. Projects authorized by this PGP shall have no more than minimal individual and cumulative adverse environmental impacts as determined by the Corps.

4. Discretionary Authority. Notwithstanding compliance with the terms and conditions of this permit, the Corps retains discretionary authority to require an Individual Permit review based on concerns for the aquatic environment or for any other factor of the public interest [33 CFR 320.4(a)]. This authority is invoked on a case-by-case basis whenever the Corps determines that the potential consequences of the proposal warrant Individual Permit review based on the concerns stated above. This authority may be invoked for projects with cumulative environmental impacts that are more than minimal or if there is a special resource or concern associated with a particular project that is not already covered by the remaining conditions of the PGP and that warrants greater review. Whenever the Corps notifies an applicant that an Individual Permit may be required, authorization under this PGP is void and no work may be conducted until the individual Corps permit is obtained or until the Corps notifies the applicant that further review has demonstrated that the work may proceed under this general permit.

5. Single and Complete Projects. This PGP shall not be used for piecemeal work and shall be applied to single and complete projects. All components of a single project shall be treated together as constituting one single and complete project and/or all planned phases of a multi-phased project, (e.g., subdivisions should include all work such as roads, utilities, and lot development) unless the Corps determines that a component has independent utility. (The *Independent Utility* test is used to determine what constitutes a single and complete project in the Corps regulatory program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed

even if the other phases were not built can be considered as separate single and complete projects with independent utility.) For linear projects, such as power lines or pipelines with multiple crossings, the “single and complete project” (i.e., single and complete crossing) will apply to each crossing of a separate water of the United States (i.e., single waterbody) at that location; except that for linear projects crossing a single waterbody several times at separate and distant locations, each crossing is considered a single and complete project, and may be reviewed for Category 1 eligibility. (However, individual channels in a braided stream or river, or individual arms of a large, irregularly-shaped wetland or lake, etc., are not separate waterbodies.) If any crossing requires a Category 2 activity, then the entire linear project shall be reviewed as one project under Category 2. Also, this PGP shall not be used for any activity that is part of an overall project for which an Individual Permit is required, unless the Corps determines the activity has independent utility.

6. Permit On-Site. For Category 2 projects, the permittee shall ensure that a copy of this PGP and the accompanying authorization letter are at the work site (and the project office) authorized by this PGP whenever work is being performed, and that all personnel with operation control of the site ensure that all appropriate personnel performing work are fully aware of its terms and conditions. The entire permit authorization shall be made a part of any and all contracts and sub-contracts for work that affects areas of Corps jurisdiction at the site of the work authorized by this PGP. This shall be achieved by including the entire permit authorization in the specifications for work. The term “entire permit authorization” means this PGP and the authorization letter (including its drawings, plans, appendices and other attachments) and also includes permit modifications. If the authorization letter is issued after the construction specifications, but before receipt of bids or quotes, the entire permit authorization shall be included as an addendum to the specifications. If the authorization letter is issued after receipt of bids or quotes, the entire permit authorization shall be included in the contract or sub-contract as a change order. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions contained within the entire PGP authorization, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

National Concerns

7. St. John/St. Croix Rivers. This covers work within the Saint John and Saint Croix River basins that requires approval of the International Joint Commission. This includes any temporary or permanent use, obstruction or diversion of international boundary waters which could affect the natural flow or levels of waters on the Canadian side of the line, as well as any construction or maintenance of remedial works, protective works, dams, or other obstructions in waters downstream from boundary waters when the activity could raise the natural level of water on the Canadian side of the boundary.

8. Historic Properties. Any activity authorized by this PGP shall comply with Section 106 of the National Historic Preservation Act. Information on the location and existence of historic resources can be obtained from the Maine Historic Preservation Commission, the National Register of Historic Places, and the Penobscot, Passamaquoddy, Micmac, and Maliseet Tribal Historic Preservation Officers. See Page 17 for historic properties contacts. If the permittee, either prior to construction or during construction of the work authorized herein, encounters a previously unidentified archaeological or other cultural resource, within the area subject to Department of the Army jurisdiction, that might be eligible for listing in the National Register of Historic Places, he/she shall stop work and immediately notify the District Engineer and the Maine Historic Preservation Commission and/or applicable Tribe(s).

9. National Lands. Activities authorized by this PGP shall not impinge upon the value of any National Wildlife Refuge, National Forest, National Marine Sanctuary, National Park, or any area administered by the National Park Service.

10. Endangered Species. No activity may be authorized under this PGP which:

- is likely to adversely affect a threatened or endangered species or a species proposed for such designation as identified under the Federal Endangered Species Act (ESA),
- is likely to destroy or adversely modify the critical habitat or proposed critical habitat of such species,
- would result in a “take” of any threatened or endangered species of fish or wildlife, or
- would result in any other violation of Section 9 of the ESA protecting threatened or endangered species of plants.

Applicants shall notify the Corps if any listed species or critical habitat, or proposed species or critical habitat, is in the vicinity of the project and shall not begin work until notified by the District Engineer (DE) that the requirements of the ESA have been satisfied and that the activity is authorized. Information on the location of threatened and endangered species and their critical habitat can be obtained from the U.S. Fish and Wildlife Service and National Marine Fisheries Service (NMFS) (addresses listed on Page 14).

11. Essential Fish Habitat. As part of the PGP screening process, the Corps will coordinate with NMFS in accordance with the 1996 amendments to the Magnuson-Stevens Fishery and Conservation Management Act to protect and conserve the habitat of marine, estuarine and anadromous finfish, mollusks, and crustaceans. This habitat is termed “Essential Fish Habitat (EFH)”, and is broadly defined to include “those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.” Applicants may be required to describe and identify potential impacts to EFH. Conservation recommendations made by NMFS will normally be included as a permit requirement by the Corps. For additional information, see the EFH regulations at 50 CFR Part 600 (<http://www.nmfs.noaa.gov>). Additional information on the location of EFH can be obtained from NMFS, whose contact information is provided on Page XX.

Any work in all aquatic habitats in the following rivers and streams, including all tributaries to the extent that they are currently or were historically accessible for salmon migration, shall not be authorized under Category 1 of the PGP and must be screened for potential impacts to EFH.

Androscoggin River	Hobart Stream	Passagassawaukeag River	Saco River
Aroostook River	Kennebec River	Patten Stream	Sheepscot River
Boyden River	Machias River	Penobscot River	St. Croix River
Dennys River	Narraguagus River	Pleasant River	Tunk Stream
Ducktrap River	Orland River	Presumpscot River	Union River
East Machias River			

12. Wild and Scenic Rivers. Any activity that occurs in a component of, or within 0.25 mile up or downstream of the main stem or tributaries of a river segment of the National Wild and Scenic River System, must be reviewed by the Corps under the procedures of Category 2 of this PGP regardless of size of impact. This condition applies to both designated Wild and Scenic Rivers and rivers designated by Congress as study rivers for possible inclusion while such rivers are in an official study status. The Corps will consult with the National Park Service (NPS) with

regard to potential impacts of the proposed work on the resource values of the Wild and Scenic River. The culmination of this coordination will be a determination by the NPS and the Corps that the work: (1) may proceed as proposed; (2) may proceed with recommended conditions; or (3) could pose a direct and adverse effect on the resource values of the river and an individual permit is required. If preapplication consultation between the applicant and the NPS has occurred whereby NPS has made a determination that the proposed project is appropriate for authorization under this PGP (with respect to Wild and Scenic River issues), this determination should be furnished to the Corps with submission of the application. Please see the NPS address on Page 16. National Wild and Scenic Rivers System) segments for Maine as of September 2005 include: **Allagash River** beginning at Telos Dam continuing to Allagash checkpoint at Eliza Hole Rapids, approximately 3 miles upstream of the confluence with the St. John River (length = 92 miles).

13. Federal Navigation Project. Any structure or work that extends closer to the horizontal limits of any Corps Federal Navigation Project (See Appendix B) than a distance of three times the project's authorized depth shall be subject to removal at the owner's expense prior to any future Corps dredging or the performance of periodic hydrographic surveys.

14. Navigation. (a) There shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein and no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized herein. (b) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

15. Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following: (a) damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes; (b) damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest; (c) damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit; (d) design or construction deficiencies associated with the permitted work; (e) damage claims associated with any future modification, suspension, or revocation of this permit.

Minimization of Environmental Impacts

16. Minimization. Discharges of dredged or fill material into waters of the United States, including wetlands, shall be avoided and minimized to the maximum extent practicable,. Permittees may only fill those jurisdictional wetlands that the Corps authorizes to be filled and impact those wetlands that the Corps authorizes as secondary impacts. If not specifically authorized, any unauthorized fill or secondary impact to wetlands may be considered as a violation of the Clean Water Act.

17. Heavy Equipment in Wetlands. Heavy equipment, other than fixed equipment (drill rigs, fixed cranes, etc.), working within wetlands shall not be stored, maintained or repaired in wetlands, unless it is less environmentally damaging otherwise, and as much as possible shall not be operated there. Where construction requires heavy equipment operation in wetlands, the equipment shall either have low ground pressure (<3 psi), or shall not be located directly on wetland soils and vegetation; it shall be placed on swamp or timber mats that are adequate to support the equipment in such a way as to minimize disturbance of wetland soil and vegetation. (See General Cond. 18 below.) Other support structures that are less impacting and are capable of safely supporting equipment may be used with written Corps authorization. Similarly, not using mats during frozen, dry or other conditions may be allowed with written Corps authorization. An adequate supply of spill containment equipment shall be maintained on site.

Note: "Swamp mats" is a generic term used to describe structures that distribute equipment weight to prevent wetland damage while facilitating passage and providing work platforms for workers and equipment. They are comprised of sheets or mats made from a variety of materials in various sizes, and they include large timbers bolted or cabled together (timber mats). Corduroy roads, which are not considered to be swamp mats, are cut trees and/or saplings with the crowns and branches removed, and the trunks lined up next to one another.

18. Temporary Fill. Fill placed into waters of the U.S. (including wetlands) totaling greater than or equal to 5,000 SF in total area (i.e., the sum of permanent and temporary fill areas) exceeds the Category 1 threshold and may not be discharged without written authorization from the Corps. When temporary fill is used (e.g., access roads, swamp mats, cofferdams), it shall be stabilized and maintained during construction in such a way as to prevent its eroding into portions of waters of the U.S. where it is not authorized. Swamp or timber mats (see Condition 17 above) are considered as temporary fill when they are removed immediately upon work completion. The area must be restored in accordance with Condition 19.

- Unconfined temporary fill authorized for discharge into flowing water (rivers and streams) shall consist only of clean washed stone.
- Temporary fill authorized for discharge into wetlands shall be placed on geotextile fabric laid on the pre-construction wetland grade. (Swamp and timber mats are excluded from this requirement.)
- Temporary fill shall be removed as soon as it is no longer needed, and it shall be disposed of at an upland site and suitably contained to prevent its subsequent erosion into waters of the U.S.
- Waters of the U.S. where temporary fill was discharged shall be restored (see Condition 19).
- No temporary work shall drain a water of the U.S. by providing a conduit for water on or below the surface.

19. Restoration.

- Upon completion of construction, all disturbed wetland areas (the disturbance of these areas must be authorized) shall be stabilized with a wetland seed mix containing only plant species native to New England.
- The introduction or spread of invasive plant species in disturbed areas shall be controlled.
- In areas of authorized temporary disturbance, if trees are cut they shall be cut at ground level and not uprooted in order to prevent disruption to the wetland soil structure and to allow stump sprouts to revegetate the work area, unless otherwise authorized.

- Wetland areas where permanent disturbance is not authorized shall be restored to their original condition and elevation, which under no circumstances shall be higher than the pre-construction elevation. Original condition means careful protection and/or removal of existing soil and vegetation, and replacement back to the original location such that the original soil layering and vegetation schemes are approximately the same, unless otherwise authorized.

20. Coastal Bank Stabilization. Projects involving construction or reconstruction/maintenance of bank stabilization structures within Corps jurisdiction should be designed to minimize environmental effects, effects to neighboring properties, scour, etc. to the maximum extent practicable. For example, vertical bulkheads should only be used in situations where reflected wave energy can be tolerated. This generally eliminates bodies of water where the reflected wave energy may interfere with or impact on harbors, marinas, or other developed shore areas. A revetment is sloped and is typically employed to absorb the direct impact of waves more effectively than a vertical seawall. It typically has a less adverse effect on the beach in front of it, abutting properties and wildlife. For more information, see the Corps Coastal Engineering Manual (supersedes the Shore Protection Manual), located at <http://chl.erdc.usace.army.mil>. Select “Products/ Services,” “Publications.” Part 5, Chapter 7-8, a(2)c is particularly relevant.

21. Sedimentation and Erosion Control. Adequate sedimentation and erosion control management measures, practices and devices, such as phased construction, vegetated filter strips, geotextile silt fences, hay bales or other devices, shall be installed and properly maintained to reduce erosion and retain sediment on-site during and after construction. They shall be capable of preventing erosion, of collecting sediment, suspended and floating materials, and of filtering fine sediment. These devices must be removed in a timely manner upon completion of work, but not until the disturbed areas have been stabilized. The sediment collected by these devices shall be removed and placed at an upland location in a manner that will prevent its later erosion into a waterway or wetland. All exposed soil and other fills shall be permanently stabilized at the earliest practicable date.

22. Waterway Crossings.

(a) All temporary and permanent crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed to withstand and to prevent the restriction of high flows, to maintain existing low flows, and to not obstruct the movement of aquatic life indigenous to the waterbody beyond the actual duration of construction. (NOTE: Areas of fill and/or cofferdams must be included in total waterway/wetlands impacts to determine applicability of this PGP).

(b) Aquatic Life Movements. No activity may substantially disrupt the necessary life-cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity’s primary purpose is to impound water. For new permanent crossings, open bottom arches, bridge spans or embedded culverts are generally preferred over traditional culverts and should be installed when practicable.

Coordination with the Corps is recommended for Category 1 projects when site constraints (e.g., placing footings) may make use of an open bottom arch or bridge span impractical. In these cases, well-designed culverts may actually perform better. Culverts shall be installed with their inverts embedded below existing streambed grade so as to avoid “hanging” and associated impediments to fish passage.

- (c) Culverts at wetland crossings shall be installed in such a manner as to preserve hydraulic connectivity, at its present level, between the wetlands on either side of the road. The permittee shall take necessary measures to correct wetland damage due to lack of hydraulic connectivity.
- (d) Sliplining (retrofitting an existing culvert by inserting a smaller diameter pipe) is discouraged. It is not considered as non-reporting Category 1 maintenance activity and written authorization is required.
- (e) Driveway crossings of wetlands and waterways shall be culverted to at least municipal or State standards (adequate number & size) sufficient to prevent restriction of flows.
- (f) Waterway crossings *proposed by the Maine Dept. of Transportation* should conform to the MDOT Fish passage Policy and Design Guides.
- (g) Construction equipment shall not cross streams without the use of temporary bridges, culverts, or cofferdams.
- (h) For projects that otherwise meet the terms of Category 1, in-stream construction work shall be conducted during the low flow period July 15 - October 1 in any year. Projects that are not to be conducted during that time period are ineligible for Category 1 and shall be screened pursuant to Category 2, regardless of the waterway and wetland fill and/or impact area.

23. Discharge of Pollutants. All activities involving any discharge of pollutants into waters of the United States authorized under this PGP shall be consistent with applicable water quality standards, effluent limitations, standards of performance, prohibitions, and pretreatment standards and management practices established pursuant to the Clean Water Act (33 U.S.C. 1251) and applicable State and local laws. If applicable water quality standards, limitations, etc., are revised or modified during the term of this PGP, the authorized work shall be modified to conform with these standards within six months of the effective date of such revision or modification, or within a longer period of time deemed reasonable by the District Engineer in consultation with the Regional Administrator of the Environmental Protection Agency. Applicants may presume that State water quality standards are met with issuance of the 401 Water Quality Certification.

24. Spawning Areas. Discharges of dredged or fill material, and/or suspended sediment producing activities, in fish and shellfish spawning or nursery areas; and 2) amphibian and waterfowl breeding areas, during spawning or breeding seasons shall be avoided. During all times of year, impacts to these areas shall be avoided or minimized to the maximum extent practicable.

25. Storage of Seasonal Structures. Coastal structures, such as pier sections and floats, that are removed from the waterway for a portion of the year (often referred to as seasonal structures) shall be stored in an upland location, located above mean high water (MHW) and not in tidal wetlands. These seasonal structures may be stored on the fixed, pile-supported portion of the structure that is seaward of MHW. This is intended to prevent structures from being stored on the marsh substrate and the substrate seaward of MHW. Seasonal storage of structures in navigable waters, e.g., in a protected cove on a mooring, requires Corps and local harbormaster approval.

26. Environmental Functions and Values. The permittee shall make every reasonable effort to carry out the construction or operation of the work authorized herein in a manner so as to

maintain as much as is practicable, and to minimize any adverse impacts on, existing fish, wildlife, and natural environmental functions and values.

27. Protection of Vernal Pools. Impacts to uplands in proximity (within 500 feet) to the vernal pools referenced in Appendix A- Definitions of Categories, shall be minimized to the maximum extent possible.

Procedural Conditions

28. Cranberry Development Projects. For Cranberry development projects authorized under the PGP, the following conditions apply:

- If a cranberry bog is abandoned for any reason, the area must be allowed to convert to natural wetlands unless an Individual Permit is obtained from the Corps allowing the discharge of fill for an alternate use.
- No stream diversion shall be allowed under this permit.
- No impoundment of perennial streams shall be allowed under this permit.
- The project shall be designed and constructed to not cause flood damage on adjacent properties.

29. Inspections. The permittee shall allow the District Engineer (DE) or his authorized representative(s) to make periodic inspections at any time deemed necessary in order to ensure that the work is being performed in accordance with the terms and conditions of this permit. The DE may also require post-construction engineering drawings for completed work, and post-dredging survey drawings for any dredging work.

30. Maintenance. The permittee shall maintain the work or structures authorized herein in good condition and in conformance with the terms and conditions of this permit. This does not include maintenance of dredging projects. Maintenance dredging is subject to the review thresholds in Appendix A: Definition of Categories sheets and/or any conditions included in a written Corps authorization. Maintenance dredging includes only those areas and depths previously authorized and dredged. Some maintenance activities may not be subject to regulation under Section 404 in accordance with 33 CFR 323.4(a)(2). Information on mosquito ditching and maintenance is provided at www.nae.usace.army.mil. Go to “Regulatory/Permitting,” and then “Other.”

31. Property Rights. This permit does not convey any property rights, either in real estate or material, or any exclusive privileges, nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations. If property associated with work authorized by the PGP is sold, the PGP authorization is automatically transferred to the new property owner. The new property owner should provide this information to the Corps in writing. No acknowledgement from the Corps is necessary.

32. Modification, Suspension, and Revocation. This permit may be either modified, suspended, or revoked, in whole or in part, pursuant to the policies and procedures of 33 CFR 325.7. Any such action shall not be the basis for any claim for damages against the United States.

33. Restoration. The permittee, upon receipt of a notice of revocation of authorization under this permit, shall restore the wetland or waterway to its former condition without expense to the

United States and as directed by the Secretary of the Army or his authorized representative. If the permittee fails to comply with such a directive, the Secretary or his designee may restore the wetland or waterway to its former condition, by contract or otherwise, and recover the cost from the permittee.

34. Special Conditions. The Corps, independently or at the request of the Federal Resource Agencies, may impose other special conditions on a project authorized pursuant to this general permit that are determined necessary to minimize adverse environmental effects or based on any other factor of the public interest. Failure to comply with all conditions of the authorization, including special conditions, will constitute a permit violation and may subject the permittee to criminal, civil, or administrative penalties or restoration.

35. False or Incomplete Information. If the Corps makes a determination regarding the eligibility of a project under this permit and subsequently discovers that it has relied on false, incomplete, or inaccurate information provided by the permittee, the permit shall not be valid and the government may institute appropriate legal proceedings.

36. Abandonment. If the permittee decides to abandon the activity authorized under this general permit, unless such abandonment is merely the transfer of property to a third party, he/she must restore the area to the satisfaction of the District Engineer.

Duration of Authorization/Grandfathering:

37. Duration of Authorization. This PGP expires five years from the effective date listed at the top of Page 1. Activities authorized under Category 1 of this PGP that have commenced (i.e., are under construction) or are under contract to commence in reliance upon this PGP's authorization will remain authorized provided the activity is completed within twelve months of the date of the PGP's expiration date. Activities authorized under Category 2 of this PGP will remain authorized in accordance with the project-specific date that the Corps provides to the permittee in the PGP authorization letter, unless:

- (a) The PGP is either modified or revoked, or
- (b) Discretionary authority has been exercised on a case-by-case basis to modify, suspend, or revoke the authorization in accordance with 33 CFR 325.2 (e)(2).

38. Previously Authorized Activities.

- (a) Activities completed under the authorizations of past PGP's that were in effect at the time the activity was completed will continue to be authorized by those PGP's.
- (b) Projects that have received written verification or approval from the Corps, based on applications made to the Corps prior to issuance of this PGP or the previous nationwide permits, regional general permits, or letters of permission shall remain authorized as specified in each authorization.
- (c) Activities authorized pursuant to 33 CFR Part 330.3 ("Activities occurring before certain dates") are not affected by this PGP.

VI. CONTACTS FOR MAINE PROGRAMMATIC GENERAL PERMIT:

1. **FEDERAL**

U.S. Army Corps of Engineers

Maine Project Office
675 Western Avenue #3
Manchester, Maine 04351
(207) 623-8367
(207) 623-8206 (fax)

Federal Endangered Species

U.S. Fish and Wildlife Service
Maine Field Office
1168 Main Street
Old Town, Maine 04468
(207) 827-5938
207-827-6099 (fax)

Wild and Scenic Rivers

National Park Service
North Atlantic Region
15 State Street
Boston, Massachusetts 02109
(617) 223-5203

Federal Endangered Species & Essential Fish Habitat

National Marine Fisheries Service
One Blackburn Drive
Gloucester, Massachusetts 01939
(978) 281-9102
(978) 281-9301 (fax)

Bridge Permits

Commander (obr)
First Coast Guard District
One South Street - Battery Bldg
New York, New York 10004
(212) 668-7021

2. **STATE OF MAINE**

Maine Department of Environmental Protection (For State Permits & Water Quality Certifications)

Natural Resources Division
Bureau of Land and Water Quality Control
17 State House Station
Augusta, Maine 04333
(207) 287-2111

Southern Maine Regional Office
312 Canco Road
Portland, Maine 04103
(201) 822-6300

Eastern Maine Regional Office
106 Hogan Road
Bangor, Maine 04401
(207) 941-4570

Northern Maine Regional Office
1235 Central Drive - Skyway Park
Presque Isle, Maine 04769
(207) 764-0477

Maine Land Use Regulation Commission (LURC) [call (800) 452-8711 for appropriate LURC office]

22 State House Station
Augusta, ME 04333-0022
(207) 287-2631
(207) 287-7439 (fax)

45 Radar Road
Ashland, ME 04732-3600
(207) 435-7963
(207) 435-7184 (fax)

Lakeview Drive
P.O. Box 1107
Greenville, ME 04441
(207) 695-2466
(207) 695-2380 (fax)

(For CZM Determinations)

State Planning Office
Coastal Program
184 State Street
State House Station 38
Augusta, Maine 04333
(207) 287-1009

(For Submerged Lands Leases)

Maine Department of Conservation
Bureau of Parks and Lands
22 State House Station
(207) 287-3061

191 Main Street
East Millinocket, ME 04430
(207) 746-2244
(207) 746-2243

(For Aquaculture Leases)

Maine Department of Marine Resources
McKown Point
Boothbay Harbor, Maine 04575
(207) 633-9500

3. HISTORIC PROPERTIES

Maine Historic Preservation Commission

State House Station 65
Augusta, Maine 04333-0065
(207) 287-2132
(207) 287-2335 (fax)

Aroostook Band of Micmacs

Attn: Mr. Williams Phillips, Chief
7 Northern Road
Presque Isle, Maine 04769
(207) 764-1972
(207) 764-7667 (fax)

Houlton Band of Maliseet Indians

Attn: Tribal Chief
88 Bell Road
Littleton, Maine 04730
(207) 532-4273, x215
(207) 532-2660 (fax)

Passamaquoddy Tribe of Indians

Pleasant Point Reservation
Attn: Tribal Council
P.O. Box 343
Perry, Maine 04667
(207) 853-2600
(207) 853-6039 (fax)

Passamaquoddy Tribe of Indians

Indian Township Reservation
Attn: Donald Soctomah, THPO
P.O. Box 301
Princeton, Maine 04668
(207) 796-2301
(207) 796-5256 (fax)

Penobscot Indian Nation

Indian Island Reservation
Attn: Ms. Bonnie Newsom, THPO
12 Wabanaki Way
Indian Island, Maine 04468
(207) 827-4168
(207) 827-5629 (fax)

4. ORGANIZATIONAL WEBSITES:

Army Corps of Engineers	www.nae.usace.army.mil (click "Regulatory/Permitting")
Corps of Engineers Headquarters	www.usace.army.mil (click "Services for the Public")
Environmental Protection Agency	www.epa.gov/owow/wetlands/
National Marine Fisheries Service	www.nmfs.noaa.gov
U.S. Fish and Wildlife Service	www.fws.gov
National Park Service	www.nps.gov/rivers/index.html
State of Maine	www.maine.gov
State of Maine -Aquaculture Guidelines	www.maine.gov/dmr/aquaculture/index.htm

District Engineer

Date

APPENDIX A: DEFINITION OF CATEGORIES

A. INLAND WATERS AND WETLANDS	Inland Waters and Wetlands: Waters that are regulated under Section 404 of the Clean Water Act, including rivers, streams, lakes, ponds and wetlands, and excluding Section 10 Navigable Waters of the U.S. The jurisdictional limits are the ordinary high water (OHW) mark in the absence of adjacent wetlands, beyond the OHW mark to the limit of adjacent wetlands when adjacent wetlands are present, and the wetland limit when only wetlands are present. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands ¹ to tidal waters are reviewed in the Navigable Waters section. (See II. Navigable Waters on the next page.)		
	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(a) NEW FILL/ EXCAVATION DISCHARGES	<p><4,300 SF inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats are considered as fill. (See General Condition (GC) 18.)</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • In-stream work limited to Jul 15 - Oct 1 • In-stream work of up to 4,300 SF of fill below OHW in waterways not designated as EFH for Atlantic salmon (see GC 11, Page 9) and performed in accordance with Maine Permit By Rule standards or a LURC permit. • New permanent stream crossings shall comply with GC 22. • Projects covered by a DEP Tier One permit with no cumulative impacts >15,000 SF in inland wetlands from previous permits, unauthorized work, and/or other state permits. • Subdivision fill complies with GC 5, Single and Complete Projects.” See Page 7. <p><u>This category excludes:</u></p> <ul style="list-style-type: none"> • Dams, dikes or activities involving water diversions.² • Open trench excavation in flowing waters. See Condition 22. 	<p>4,300 SF to <3 acres inland waterway and/or wetland fill and associated secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback). Swamp mats filling any area ≥4,300 SF are reviewed in Category 2. (See GC 18, Page 11.)</p> <p><u>Includes:</u> In-stream work, including crossings (other than spanned crossing as described in Category 1) with any discharge of fill below ordinary high water in perennial waterways designated as EFH for Atlantic salmon. Time of year restrictions determined case-by-case.</p> <p>Projects with proactive restoration as a primary purpose with impacts of any area ≥4,300 SF. The Corps, in consultation with State & Federal agencies, must determine that net adverse effects are not more than minimal.</p> <p>Specific activities with impacts of any area ≥4,300 SF required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.</p>	<p>≥3 acres inland waterway and/or wetland fill and secondary impacts (e.g., areas drained, flooded, cleared or excavated). Fill area includes all temporary and permanent fill, and excavation discharges (except for incidental fallback).⁵</p> <p>EIS required by the Corps.</p> <p>In-stream work exceeding Category 2 limits.</p>

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
	<ul style="list-style-type: none"> • Work in waters designated as EFH for Atlantic salmon (see GC 11, Page 9), unless the waterway is crossed with a span and footprints of the span abutments are outside ordinary high water with no more than 4,300 SF of associated wetland impact. • Situations when a Special Inland Water or Wetland³ (vernal pool) of any size may be impacted. • Work in special aquatic sites⁴ other than wetlands. • Work within ¼ mile of a Wild and Scenic River. (See GC 12, Page 9.) • Work in National Wildlife Refuges. 		
(b) BANK STABILIZATION PROJECTS	<p>Inland bank stabilization <100 FT long and <1 CY of fill per linear foot below OHW.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • In-stream work limited to Jul 15 - Oct 1. • No work in special inland waters & wetlands³ and special aquatic sites (SAS)⁴. • No open trench excavation in flowing waters. See Condition 22. • No structures angled steeper than 3H:1V allowed. Only rough-faced stone or fiber roll revetments allowed. • No work in waters designated as EFH for Atlantic salmon (see GC 11, Page 9), 	Inland bank stabilization ≥100 FT long and/or ≥1 CY of fill per linear foot, or any amount with fill in wetlands.	
(c) REPAIR AND MAINTENANCE OF AUTHORIZED FILLS	<p>Repair or maintenance of existing, currently serviceable, authorized fills with no substantial expansion or change in use.</p> <p>*Conditions of the original authorization apply, however minor deviations in fill design allowed.⁶</p>	Replacement of non-serviceable fills, or repair/maintenance of serviceable fill, with expansion <1 acre, or with a change in use.	Replacement of non-serviceable fill, or repair/maintenance of serviceable fill, with expansion ≥1 acre.

II. NAVIGABLE WATERS	Navigable Waters of the United States: Waters that are subject to the ebb and flow of the tide and Federally designated navigable rivers (the Penobscot River, Kennebec River, and Lake Umbagog) (Section 10 Rivers and Harbors Act of 1899). The jurisdictional limits are the mean high water (MHW) line in tidal waters and the ordinary high water (OHW) mark in non-tidal portions of the Federally designated navigable rivers. For the purposes of this PGP, fill placed in the area between the mean high water (MHW) and the high tide line (HTL), and in the bordering and contiguous wetlands ¹ to tidal waters are also reviewed in this Navigable Waters section.		
	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(a) FILL	Discharges of dredged or fill material incidental to the construction of bridges across navigable waters of the United States, including cofferdams, abutments, foundation seals, piers, and temporary construction and access fills provided the U.S. Coast Guard authorizes such discharges as part of the bridge permit. Causeways and approach fills are not included in this category and require Category 2 or Individual Permit authorization.	<p><1 acre fill and/or secondary waterway impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill.</p> <p>Temporary fill or excavation <1 acre in special aquatic sites (SAS)⁴.</p> <p>Permanent fill or excavation <1,000 SF in SAS⁴.</p> <p>Permanent fill and/or excavation ≥1,000 SF in SAS⁵ when associated with a project <u>with</u> proactive restoration as a primary purpose. The Corps, in consultation with Federal & state agencies, must determine that net adverse effects are not more than minimal.</p> <p>Specific activities with impacts of any area required to affect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Wetlands must be restored in place.</p>	<p>≥1 acre waterway fill and/or secondary waterways or wetland impacts (e.g., areas drained, flooded or cleared). Fill includes temporary and permanent waterway fill.</p> <p>Temporary fill or excavation ≥1 acre in SAS⁴.</p> <p>Permanent fill or excavation ≥1,000 SF in SAS⁴ other than as specified in Cat. 2</p> <p>EIS required by the Corps.</p>
(b) REPAIR AND MAINTENANCE WORK	Repair or maintenance of existing, currently serviceable, authorized structure or fill with no substantial expansion or change in use. --*Must be rebuilt in same footprint, however minor deviations in structure design allowed ⁶	Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fills, with fill, replacement or expansion <1 acre, or with a change in use.	Replacement of non-serviceable structures and fills or repair/maintenance of serviceable structures or fill, with replacement or expansion ≥1 acre.

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(c) DREDGING AND ASSOCIATED DISPOSAL	<p>Maintenance dredging for navigational purposes <1,000 cy with upland disposal. Includes return water from upland contained disposal area.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Proper siltation controls are used. • Dredging & disposal operation limited to November 1 - January 15. • No impact to special aquatic sites. • No dredging in intertidal areas. 	<p>Maintenance dredging $\geq 1,000$ CY, new dredging <25,000 CY, or projects not meeting Category 1. Includes return water from upland contained disposal areas.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Disposal includes 1. upland, 2. beach nourishment (above MHW) of any area provided dredging's primary purpose is navigation or sand is from an upland source and Corps, in consultation w/Federal and State agencies, determines the net adverse effects are not more than minimal; and 3. open water & confined aquatic disposal, if Corps, in consultation with Federal and State agencies, finds the material suitable.. 	<p>Maintenance dredging and/or disposal (any amount) in or affecting a SAS⁴. See II(a) above for dredge disposal in wetlands or waters.</p> <p>New dredging $\geq 25,000$ CY, or any amount in or affecting SAS⁴.</p>
(d) MOORINGS	<p>Private, non-commercial, non-rental, single-boat moorings authorized by the local harbormaster.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Not associated with any boating facility⁷ • Not located in a Federal Navigation Project other than a Federal Anchorage. Moorings in Federal Anchorage not associated with a boating facility⁷. • No interference with navigation • Not located in vegetated shallows⁸ • Within ¼ mile of the owner's residence or a public access point.⁹ <p>Minor relocation of previously authorized moorings and moored floats consistent with Harbormaster recommendations, provided it is also consistent with local regulations, is not located in vegetated shallows, and does not interfere with navigation.</p>	<p>Moorings associated with a boating facility⁷.</p> <p>Moorings that don't meet the terms in Category 1 and don't require an Individual Permit.</p> <p>Moorings located such that they, and/or vessels docked or moored at them, are within the buffer zone of the horizontal limits¹⁰ of a Corps Federal Channel. (See Appendix B.) The buffer zone is equal to three times the authorized depth of that channel.</p>	<p>Moorings within the horizontal limits¹⁰, or with moored vessels that extend, into the horizontal limits of a Federal Navigation Project (See App. B), except those in Federal Anchorages under Category 1.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>

	CATEGORY 1	CATEGORY 2	INDIVIDUAL PERMIT
(e) STRUCTURES AND FLOATS	<p>Reconfiguration of existing authorized structures or floats.</p> <p><u>Provided:</u></p> <ul style="list-style-type: none"> • Structures not positioned over vegetated shallows⁸ or salt marsh. • Floats supported off substrate at low tide. • No dredging, additional slips or expansion.. 	<p>Private structures or floats built to access waterway (seasonal and permanent)</p> <p>Expansions to existing boating facilities⁷.</p> <p>Compliance with the following is recommended, but not required:</p> <ul style="list-style-type: none"> • ≤400 SF in size, with attached floats totaling ≤200 SF. • Floats supported above the substrate during all tides. • Structures & floats are not positioned over vegetated shallows⁸ and moored vessels are not positioned over SAS⁴. • Structures are ≤4' wide and have at least a 1:1 height:width ratio¹¹. Not located within the buffer zone of the horizontal limits¹⁰ of a Corps Federal Navigation Project (FNP) (See App. B). The buffer zone is equal to three times the authorized depth of that FNP. • No structure extends across >25% of the waterway width at mean low water. • No structure located within 25' of any vegetated shallows⁸. • No structure located within 25' of the riparian property boundary. 	<p>Structures or floats located such that they and/or vessels docked or moored at them are within the horizontal limits of a Corps Federal Navigation Project (see App. B).</p> <p>Structures and floats associated with a new or previously unauthorized boating facility⁷.</p> <p>Note: Federal Navigation Projects include both Federal Channels and Federal Anchorages.</p>
(f) MISCELLANEOUS	<p>Temporary buoys, markers, floats, etc., for recreational use during specific events, provided they are removed within 30 days after use is discontinued.</p> <p>The placement of aids to navigation and regulatory markers which are approved by and installed in accordance with the requirements of the U.S. Coast Guard. (See 33 CFR part 66, Chapter I, subchapter C)."</p>	<p>Structures or work in or affecting tidal or navigable waters that are not defined under any of the previous headings listed above. Includes, but is not limited to, utility lines, aerial transmission lines, pipelines, outfalls, boat ramps, bridges, tunnels and horizontal directional drilling activities seaward of the MHW line.</p>	<p>EIS required by the Corps.</p> <p>Shellfish/finfish (other than Atlantic salmon), or other aquaculture facilities with more than minimal individual and cumulative impacts to environmental resources or navigation. Aquaculture guidelines are provided at: www.maine.gov/</p>

	<p>Oil spill clean-up temporary structures or fill. Fish/wildlife harvesting structures/fill (as defined by 33 CFR 330, App. A-4)</p> <p>Scientific measurement devices and survey activities such as exploratory drilling, surveying and sampling activities. Does not include oil and gas exploration and fill for roads or construction pads.</p> <p>Shellfish seeding (brushing the flats¹²) projects.</p> <p>Excludes work in National Wildlife Refuges.</p>	<p>Shellfish/finfish (other than Atlantic salmon), or other aquaculture facilities with no more than minimal individual and cumulative impacts to environmental resources or navigation. Aquaculture guidelines are provided at: www.maine.gov/dmr/aquaculture/index.htm.</p>	<p>dmr/aquaculture/index.htm.</p>
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¹ **Bordering and Contiguous Wetlands:** A bordering wetland is immediately next to its adjacent waterbody and may lie at, or below, the ordinary highwater mark (MHW in navigable waters) of that waterbody and is directly influenced by its hydrologic regime. Contiguous wetlands extend landward from their adjacent waterbody to a point where a natural or manmade discontinuity exists. Contiguous wetlands include bordering wetlands as well as wetlands that are situated immediately above the ordinary highwater mark and above the normal hydrologic influence of their adjacent waterbody. Note, with respect to the Federally designated navigable rivers, the wetlands bordering and contiguous to the tidally influenced portions of those rivers are reviewed under “II. Navigable Waters”.

² **Water Diversions:** Water diversions are activities such as bypass pumping or water withdrawals. Temporary flume pipes, culverts or cofferdams where normal flows are maintained within the stream boundary’s confines aren’t water diversions. “Normal flows” are defined as no change in flow from pre-project conditions.

³ **Special Inland Waters and Wetlands:** Vernal Pools - Temporary to permanent bodies of water occurring in shallow depressions that fill during the spring and fall and may dry during the summer. Vernal pools have no permanent or viable populations of predatory fish. Vernal pools provide the primary breeding habitat for wood frogs, spotted salamanders, blue-spotted salamanders, and fairy shrimp, and provide habitat for other wildlife including several endangered and threatened species.

⁴ **Special Aquatic Sites:** Includes wetlands and saltmarsh, mudflats, riffles and pools, and vegetated shallows.

⁵ **IP Required:** The greater the impacts, the more likely an individual permit will be required. Projects involving impacts to degraded or low value wetlands between 1-3 acres may be approved under Category II, subject to the Federal screening. The Corps recognizes and endorses the DEP Tier 2 upper thresholds of 1 acre. Compensatory mitigation is likely to be required at this level of impact.

⁶ **Maintenance:** Minor deviations in the structure’s configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards, which are necessary to make repair, rehabilitation, or replacement are permitted, provided the adverse environmental effects resulting from such repair, rehabilitation, or replacement are minimal. No seaward expansion for bulkheads or any other fill activity is considered Category 1 maintenance. Currently serviceable means useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

⁷ **Boating Facilities:** Facilities that provide, rent, or sell mooring space, such as marinas, yacht clubs, boat clubs, boat yards, town facilities, dockominiums, etc.

⁸ **Vegetated Shallows:** Subtidal areas that support rooted aquatic vegetation such as eelgrass

⁹ **Mooring Location:** Cannot be at a remote location to create a convenient transient anchorage.

¹⁰ **Horizontal Limits:** The outer edge of a Federal Navigation Project (FNP). Contact the Corps of Engineers for information on FNP’s.

¹¹ **Structures:** The height of structures shall at all points be equal to or exceed the width of the deck. For the purpose of this definition, height shall be measured from the marsh substrate to the bottom of the longitudinal support beam.

¹² **Brushing the Flats:** The placement of tree boughs, wooden lath structure, or small-mesh fencing on mudflats to enhance recruitment of soft-shell clams (*Mya arenaria*).